

## AN ORDINANCE

**AMENDING CHAPTER 6 OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADDING A NEW ARTICLE XIV TO REQUIRE DEMOLITION LICENSING AND BONDING; ESTABLISHING DEMOLITION PERMIT REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES AND DIRECTING PUBLICATION.**

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**WHEREAS**, the purpose of this Ordinance is to regulate the issuance of demolition licenses and permits, and to require licensing bonds; and

**WHEREAS**, this Ordinance shall be known as the “Demolition Ordinance”; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Chapter 6, Article XIV of the City Code of the City of San Antonio, Texas is hereby adopted as follows:

### **XIV. DEMOLITION CONTRACTOR LICENSES AND BONDING AND DEMOLITION PERMIT REQUIREMENTS**

#### **Sec. 6-431 Definitions**

The following words, terms and phrases, are defined for purposes of this article as follows:

(1) “Building Official” shall have the meaning assigned in Appendix A of Chapter 35 of the City Code of San Antonio, Texas; and

(2) “Code” shall mean the City Code of San Antonio, Texas; and

(3) “Demolition” shall have the meanings assigned in Appendix A of Chapter 35 of the City Code of San Antonio, Texas; and

(4) “Demolition Contractor” shall mean an individual or company or partnership doing the work of demolition for payment; and

(5) “Moral Turpitude” shall mean conduct that is contrary to justice, honesty, or good morals.

**Sec. 6-432      RULES OF CONSTRUCTION**

(a) Computation of Time.

(1) In computing a period of days, the first day is excluded and the last day is included.

(2) Days shall mean working days exclusive of federal holidays and weekends unless otherwise stated.

**Sec. 6-433      POWERS AND DUTIES OF THE DIRECTOR OF DEVELOPMENT SERVICES**

(a) In addition to the powers and duties elsewhere prescribed in the Code, the Director of Development Services shall have the power and duty to keep all records of licenses and permits applied for, issued, refused and revoked. The Director of Development Services shall further have the power and duty to adopt, amend, or repeal such rules and regulations consistent with the provisions of this chapter as may be necessary for the proper administration and enforcement hereof. This power shall include, but is not limited to, delegation authority.

**Sec. 6-434      LICENSE REQUIRED**

(a) From and after the effective date hereof, it shall be unlawful for any person to maintain, own or operate a demolition contracting business, unless a license is first obtained as provided herein. Such licenses, when issued, shall be valid for a period of two (2) years from the date of issuance, shall not be assignable or transferable except as specifically authorized, and shall be posted in a conspicuous place in the office of the licensee.

**Sec. 6-435      LICENSE FEES – DEMOLITION CONTRACTOR LICENSE**

(a) Such fees for initial, renewal or duplicate licensure shall be paid to the Building Official upon issuance of the demolition license in accordance with City Code Chapter 6, Article I, Section 6-3, In General: Fee Schedule.

**Sec. 6-436      LICENSE DISPLAY; RENEWALS; DUPLICATES**

(a) All licenses shall be for a period of two (2) years.

- (b) No license shall be assignable or transferable. The owner of a business and all partners of a partnership and all officers of a corporation who are actively engaged in the demolition business must qualify for a license. Licenses will be issued to the owner of a business, partnership or corporation, or his/her registered agent.
- (c) Each license issued pursuant to this chapter shall be posted and kept in some easily accessible, conspicuous place located in the principal business office as printed in the license.
- (d) Any license, which has not been suspended or revoked, may, upon the payment of the renewal fee prescribed in Chapter 6, be renewed for an additional period of two (2) years from its expiration, upon filing of an application for such renewal, on a form to be prescribed by the Building Official. This provision in no way limits the number of times a license may be renewed.
- (e) A duplicate license may be issued for one lost, destroyed or mutilated upon application on a form prescribed by the Building Official and the payment of the fee prescribed by Chapter 6 of the City Code. Each such duplicate license shall have the word "duplicate" stamped across the face of the instrument and shall bear the same number as the one it replaces.
- (f) All owned vehicles used in business shall have posted on each side in letters of three inches minimum height in contrasting colors stating name of contractor and his demolition contractor's license number.

**Sec. 6-437 DEMOLITION LICENSE REQUIREMENTS AND APPLICABLE PROCEDURES**

Applicants for the licenses required by this chapter shall establish the following requirements in writing to the satisfaction of the Building Official:

- (a) The existence and maintenance of a bona fide office, equipped with telephone, for the conducting of his business;
- (b) That neither the applicant, nor any partner or corporate officer in the demolition contracting business on whose behalf the application is submitted, has ever been convicted of any penal offense arising out of or related to the performance of demolition contracts nor convicted of a felony or a misdemeanor involving moral turpitude during an eight (8) year period immediately preceding the date of the applications;
- (c) That applicant, or the entity upon whose behalf the application is submitted, is qualified by either training or experience to conduct a demolition contracting business;

- (d) That neither applicant, nor any partner or corporate officer in the demolition business upon whose behalf the application is made, has been convicted of a violation of this chapter.

In addition to the foregoing requirements, the Building Official may require that the application include information reasonably pertinent to the determination of the applicant's fitness to be issued such license, or any renewal thereof. Applications for licensure shall be submitted in a form prescribed by the Building Official. The Building Official shall investigate and examine the qualifications and fitness of the applicant, and within a period of thirty (30) days from receipt of an application in proper form and the fee, the Building Official will issue or refuse a license to the applicant.

- (a) Refusal Procedures: The Building Official shall furnish the applicant a refusal in writing by registered or certified mail to the applicant's last known mailing address, setting forth the grounds for the refusal. Refusal will be justified by any of the minimum license requirements listed above, any outside information calling into question an applicant's fitness to be issued such a license, or a renewal, or any of the reasons contained in Sec. 6-439, Revocation of Licenses.

#### **Sec. 6-438      APPELLATE PROCEDURE WHEN LICENSE DENIED**

The applicant or his representative may file a written notice of appeal with the City Clerk upon a denial of an application for licensure appealing such determination to the board of adjustment. No specific format is mandated for the written notice of appeal. The notice of appeal shall be filed within ten (10) days with appropriate copy to the Building Official. The postal date stamped on the refusal letter envelope shall govern and control the start of the ten (10) day period. Judicial review of a board of adjustment decision shall follow section 211.011 of the local government code.

#### **Sec. 6-439      REVOCATION OF LICENSES**

- (a) A demolition contractor's license shall be revoked by the Building Official after a hearing in the event said licensee, or any proprietor, partner, or corporate officer is convicted of any penal offense arising out of or related to the performance of a contract or suffers a judgment against them in a civil action predicated upon fraud in connection with the performance of a demolition contract.
- (b) The Building Official shall, after a hearing, revoke a license for any one or more of the following reasons:
- (1) Conviction of the licensee or any proprietor, partner or corporate officer therein of a felony or misdemeanor involving moral turpitude;

- (2) The making of any false statement as to a material matter in an application for license, renewal thereof or hearing in connection with same;
  - (3) Conviction of a violation of the currently adopted Building Code or local amendments of the City of San Antonio;
  - (4) Violation of any provision of this chapter;
  - (5) Upon judicial determination of an abandonment or willful failure to perform any demolition contract or project in or undertaken by a contractor, or willful deviation from or disregard of plans or specifications in any material respect;
  - (6) Upon judicial determination of substantial misrepresentation on part of contractor in the procurement of a demolition contract;
  - (7) Upon judicial determination of fraud on the part of a contractor in the execution of or in the material alteration of any contract or mortgage, promissory note or other document relating to said contract;
  - (8) Failure of contractor to notify the Building Official or designee of any change in the ownership, management, business name, or location of their registered business office; or
  - (9) Licensed contractor obtaining permit(s) for an unlicensed contractor or one whose license has been revoked or denied.
- (c) The hearing shall be in a standard form prescribed by the Building Official. Notification to the licensee of said hearing before the Building Official shall be mailed to the licensee by certified or registered mail, at licensee's last known mailing address. The notification shall give not less than ten (10) days notice of the hearing.
- (d) A person requesting to appeal the decision of the Building Official must submit their appeal request in writing and the fee within ten (10) days of the revocation. Upon receipt of the appeal request and fee, the appeal shall be placed on the first open date of the board of adjustment's docket. If the person makes a written request for a copy of the revocation order from the Building Official, such copy shall be issued.
- (e) Judicial review of a board of adjustment decision shall follow section 211.011 of the Local Government Code.

- (a) No person, firm, association or corporation shall demolish any building or structure in the city, or cause the same to be done, without first obtaining a demolition permit for each such building or structure authorized by the city of San Antonio.
- (b) Every demolition permit shall be valid during the time outlined in the permit. If demolition is not complete, the Director of Development Services may extend the permit upon request of the applicant.

**Sec. 6-441      DEMOLITION PERMIT APPLICATION REQUIREMENTS**

Applications for demolition permits shall require the following information:

- (a) Name and address of demolition contractor.
- (b) Name and address of building and property owners including a notarized letter authorizing demolition of building or structure.
- (c) Except for single family residence and other single story buildings where it is not possible for debris to fall on public walkways or thoroughfares, the Building Official shall require an engineering report, prepared by a qualified registered professional engineer, of the building or structure to be demolished so as to determine the condition of the framing, floors and walls, copy of which is to be filed with the Building Official.
- (d) The demolition contractor shall be required to prepare a complete plan and schedule for demolition to be filed with the Building Official. Should the plan and schedule be changed at any time, the changes must be approved by the Building Official and a copy of such changes must be filed with the Building Official.
- (e) The location site of the disposal of debris and the proposed route to be used to disposal site.
- (f) Approval from Risk Management that insurance and bond are current.
- (g) Applicant shall submit the current demolition license number and bond materials of the demolition contractor who has been hired to perform the work.
  - (1) All demolition contractors, as defined in this chapter, shall be licensed and bonded. Any substitution of contractor listed in the application shall be reported to the Building Official with appropriate licensing and bonding materials. A failure to notify the Building Official shall result in administrative and/or criminal and/or civil penalties. It shall be an affirmative

defense to prosecution that substitute contractor was licensed and bonded at the time.

(h) Supplemental materials as prescribed by the Building Official.

**Sec. 6-442**      **DEMOLITION PERMIT REVOCATION APPEALS**

(a) The Building Official may revoke a demolition permit required by this chapter when the conditions under which the permit is granted have been violated. Revocation is discretionary on the Building Official and contractor shall be afforded an appellate hearing in front of the board of adjustment. A person requesting to appeal the decision of the Building Official must submit a written request and the fee within ten (10) days of the revocation. If the person makes a written request to the director for the decision detailing revocation in writing, such decision shall issue.

**Sec. 6-443**      **DEMOLITION PERMIT FEES**

(a) A fee for each demolition permit shall be paid to the Building Official in accordance with City Code Chapter 6, Article I, Section 6-3 Fee Schedule.

**Sec. 6-444**      **INSURANCE**

Applicant for demolition permits shall maintain and cause to be maintained the following types of insurance:

- (a) Workmen's Compensation Insurance – statutory requirements.
- (b) Automobile Liability Insurance with limits of Personal Injury \$100,000 each person, \$300,000 each accident, Property Damage \$50,000 each accident.
- (c) Public Liability Insurance and insurance coverage for their employees, agents and contractors, from a company authorized to do business in the State of Texas, in the following amounts:

(1) Comprehensive General Liability Insurance

(a) Public Liability (bodily injury) Insurance with limits not less than \$300,000 for each occurrence.

(b) Public Liability (property damage) Insurance with limits of not less than \$100,000 for each accident and \$200,000 in the aggregate.

(c) The policy shall:

- (1) include the hazards of explosion and collapse coverage
- (2) provide that the same shall not be cancelled until a ten (10) day or non-renewal has been served upon the City Clerk or the City of San Antonio.
- (d) Applicant shall file with the City Clerk certificates of insurance executed by the insurance carrier issuing said policies certifying that said insurance is in full force and effect and that the demolition operations are covered by such policies.

**Sec. 6-445**      **INDEMNITY BOND**

- (a) Before such permit shall be issued, the person, firm, association or corporation applying therefor shall execute and deliver to the city, to be kept on file in the City Clerk's Office, a good and sufficient bond of indemnity, issued by a surety company licensed to do business in the State of Texas, in the sum of Five Thousand Dollars (\$5,000.00) to be approved by the City Attorney and conditioned that the person, firm, association or corporation making such application shall promptly pay in and unto the City of San Antonio any and all costs, damages and expenses which said city may incur or suffer, including, but not limited to, damages to streets, sidewalks, utilities, or other public places by reason of carelessness or negligence in the performance of such demolition, or by reason of any defects caused from or arising from careless, negligent or imperfect demolition procedures, or any and all acts and omissions of said applicant, his agents, servants, or subcontractors.

**Sec. 6-446**      **MISCELLANEOUS PROVISIONS**

- (a) No structural or load-supporting members, which would affect the stability of the structure, shall be cut or removed from any story until all construction materials above such a story have been completely demolished and removed.
- (b) No material shall be dropped to any point outside the exterior walls of the structure except in enclosed chutes.
- (c) In masonry construction, the demolition of exterior walls and floor construction shall be removed and dropped into the storage space before commencing the removal of exterior walls and floor in the story below.
- (d) In buildings with a structural steel frame member type construction, the steel framing may be left in place during the demolition of



masonry. Where this is done, all steel beams girders and similar structural supports shall be cleared of all loose material as the masonry demolition progresses downward.

- (e) No wall, chimney or other structural part shall be left at the end of each shift in such condition that it may collapse due to wind, vibration or any other cause.
- (f) Upon the completion of demolition operations, the site shall be completely cleared of rubbish, brush, weeds and other debris. The site must be left free of ponds and underground tanks shall be removed. Basement slabs shall be broken up to allow drainage and septic tanks, wells, cesspools, and cisterns shall be broken open and filled in.
- (g) Security service during non-working hours shall be provided by the contractor.
- (h) Where shown to be necessary in the plan for demolition, the city shall coordinate and approve the blocking of walkways, thoroughfares and alleys to protect the public.
- (i) The City Council may issue a permit for selective use of explosives for demolition purposes if the contractor has complied with all of the conditions of this Chapter and if the plan for selective demolition by the use of explosives is conducted in accordance with Sections 1926.900 through 1926.914 inclusive of Subpart "U" of the Rules and Regulations of the Occupational Safety and Health Administration of the Department of Labor. 29 CFR, part 1926, subpart U.

#### **Sec. 6-447 CRIMINAL PENALTIES FOR VIOLATION**

It shall be unlawful for any person to demolish any building or structure in the city or cause the same to be done, contrary to or in violation of any of the provisions of this Code or any currently adopted Building Code.

Any person, firm or corporation violating any of these provisions shall be deemed guilty of a separate offense for each day or portion thereof during which any violation is committed, continued, or permitted, and each separate violation shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

**SECTION 2.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, or any appendix thereof, for any reason, be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 3.** No other provision of the City Code is amended hereby. All other provisions shall remain in effect.

**SECTION 4:** There is no financial impact.

**SECTION 5.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Revised Civil Statutes Annotated as amended Title 5, Chapter 551, Government Code.

**SECTION 6.** The City Clerk for the City of San Antonio is hereby directed to publish notice of this Ordinance in a newspaper published in the City of San Antonio, Texas as required by the Charter of the City of San Antonio.

**SECTION 7.** The publishers of the City Code are authorized to amend the City Code to reflect the changes adopted herein.

**SECTION 8.** This Ordinance shall become effective on the [REDACTED] day of October, 2006.

**PASSED AND APPROVED this [REDACTED] of October, 2006.**

**M A Y O R**

**ATTEST:**

**City Clerk**

**APPROVED AS TO FORM:** \_\_\_\_\_

**City Attorney**